

## **REMARKS/ARGUMENTS**

Applicant responds herein to the Office Action dated October 2, 2006.

Claims 17-28 have been previously withdrawn from consideration. Accordingly, 1-16 are the claims currently presented for examination.

Claims 1-5, 8 and 11 are amended to clarify features recited thereby and to render their styles closer to styles used in United States patent practice. The amendments to claim 1 are fully supported by applicant's disclosure. For example, the third full paragraph of page 1 of the Specification discloses that endoscopes have medical uses and that an elongated insertion unit may be inserted into a pipe.

### ***Objection to the Specification***

The Title is objected to on the ground that it is not descriptive. A new Title is submitted herein.

### ***Rejection of Claims 1-16 under 35 U.S.C. § 112, Second Paragraph***

Claims 1-16 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Claims 1-5, 8 and 11 are amended. Accordingly, the grounds for rejection of these claims, and the remaining claims depending from claim 1, are removed.

### ***Rejection of Claims 1-3, 8 and 10 under 35 U.S.C. § 102***

Claims 1-3, 8 and 10 are rejected under 35 U.S.C. § 102(b) as being anticipated by Flaherty, US Patent No. 6,726,677. Reconsideration of this rejection is respectfully requested.

Among the problems recognized and solved by applicant's claimed invention is that of passing an insertion unit of an endoscope through a pipe with more than one sharp turn or elbow. According to an aspect of applicant's claimed invention, a tube with a cover member with a direction changing hole attached is provided through which a flexible tube may be passed, which flexible tube itself has a cover member with a direction changing hole. Accordingly, the insertion unit of the endoscope passed through both the first tube and the second tube will change directions more than one time to allow it to traverse a tube with two or more sharp turns or elbows (as shown for example in Figure 3).

For at least the following reasons, the recitations of independent claim 1 are neither anticipated by nor obvious based on the cited art. By way of example, independent claim 1 requires an endoscope having an elongated insertion unit, and a plurality of tubular members, each tubular member of the plurality of tubular members having a guide channel that permits another tubular member and the insertion unit to pass through the guide channel.

Flaherty discloses a tissue penetrating catheter (Flaherty, Abstract). Flaherty further discloses a working lumen 106 that extends longitudinally through the catheter body 102, such that the lumen 106 includes a curved deflecting portion 108, which allows the flexible tissue penetrating element (not shown in Flaherty) to be deflected by curved portion 108 to project transversely from the catheter 100 (Flaherty, column 9, lines 2-12).

First, Flaherty does not disclose or suggest an endoscope or an endoscope system. As discussed, Flaherty is directed to a catheter, for example a catheter for transvascular interstitial surgery (TVIS), also known as a tissue penetrating catheter (Flaherty, column 7, lines 3-7).

Second, since Flaherty does not disclose or suggest an endoscope system that includes an endoscope, Flaherty is incapable of disclosing or suggesting an endoscope system that includes a plurality of tubular members, each tubular member of the plurality of tubular members having a guide channel that permits another tubular member of the plurality of tubular members and the insertion unit to pass through the guide channel. That is, Flaherty does not disclose or suggest a tubular member with a guide channel that permits a second tubular member to pass through the guide channel and also permits the insertion unit to pass through the guide channel. Accordingly, Flaherty does not disclose or suggest the recitations of independent claim 1.

Further, Flaherty does not disclose or suggest the problems recognized and solved by applicant's claimed invention. For example, the problem of passing an insertion unit of an endoscope through a pipe with multiple sharp bends or elbows is not disclosed or suggested by Flaherty and the cited art. Accordingly, the recitations of claim 1 would not have been obvious based on Flaherty and the cited art.

Claims 2, 3, 8 and 10 depend from independent claim 1 and thus incorporate novel and nonobvious features thereof. Accordingly, claims 2, 3, 8 and 10 are patentably distinguishable over the cited art for at least the same reasons as claim 1.

***Rejection of Claims 4 and 5 under 35 U.S.C. § 103 over Flaherty and Matsuno***

Claims 4 and 5 are rejected under 35 U.S.C. § 103(a) as being obvious based on Flaherty in view of Matsuno, US Patent No. 6,605,033. Reconsideration of this rejection is respectfully requested.

Matsuno does not cure the above-discussed deficiencies of Flaherty as they relate to independent claim 1, and the Examiner does not allege that the secondary reference discloses or suggests the above-noted features of claim 1. According, Flaherty and Matsuno, even taken together in combination, do not disclose or suggest the recitations of independent claim 1. Therefore, claims 4 and 5 are patentably distinguishable over the cited art for at least the same reasons.

***Rejection of Claims 6, 7, 9 and 11 under 35 U.S.C. § 103***

Claims 6, 7, 9 and 11 are rejected under 35 U.S.C. § 103(a) as being obvious based on Flaherty, Matsuno in view of Krupa, US Patent Application Publication No. 2003/0216616. Reconsideration of this rejection is respectfully requested.

Krupa does not cure the above-discussed deficiencies of Flaherty as they relate to independent claim 1, and the Examiner does not allege that the secondary references disclose or suggests the above-noted features of claim 1. Accordingly, Flaherty, Matsuno and Krupa, even taken together in combination, do not disclose or suggest the recitations of claim 1.

Claims 6, 7, 9 and 11 depend from independent claim 1, and thus are patentably distinguishable over the cited art for at least the same reasons.

***Rejection of Claim 12 under 35 U.S.C. § 103***

Claim 12 is rejected under 35 U.S.C. § 103(a) as being obvious based on Flaherty in view of Hasegawa, US Patent Application Publication No. 2002/0032365. Reconsideration of this rejection is respectfully requested.

Hasegawa does not cure the above-discussed deficiencies of Flaherty as they relate to independent claim 1, and the Examiner does not allege that the secondary reference discloses or suggests the above-noted features of claim 1. Accordingly, Flaherty and Hasegawa, even taken together in combination, do not disclose or suggest the recitations of independent claim 1.

Claims 12 depends from claim 1, and thus is patentably distinguishable over the cited art for at least the same reasons.

In view of the foregoing discussion, withdrawal of the objection and the rejections and allowance of the application are respectfully requested.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims as amended and pass this case to issue.

Should the Examiner have any questions regarding the present Amendment, or regarding the application generally, the Examiner is invited to telephone the undersigned attorney at the below-provided telephone number.

THIS CORRESPONDENCE IS BEING  
SUBMITTED ELECTRONICALLY  
THROUGH THE UNITED STATES  
PATENT AND TRADEMARK OFFICE  
EFS FILING SYSTEM  
ON JANUARY 2, 2007

Respectfully submitted,



MAX MOSKOWITZ

Registration No.: 30,576

OSTROLENK, FABER, GERB & SOFFEN, LLP

1180 Avenue of the Americas

New York, New York 10036-8403

Telephone: (212) 382-0700